

## Message Text

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ACTION EUR-12

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TAGS: EINV, EMIN, CA

SUBJ: CANADIAN MINING PRESS COMMENT ON US ANTI-TRUST ACTION  
AGAINST POTASH COMPANIES - A NEAR CHALLENGE TO  
SASKATCHEWAN SOVEREIGNTY?

THE JULY 8 ISSUE OF THE CANADIAN WEEKLY NATIONAL MINING NEWSPAPER  
THE NORTHERN MINER CARRIED THE FOLLOWING UNSIGNED ARTICLE  
UNDER THE HEADLINE "WHAT GOVERNMENT DO YOU LISTEN TO?  
SASKATCHEWAN POTASH OUTPUT SUBJECT TO U.S. ANTITRUST LAWS":

QUOTE IT APPEARS THAT THE U.S. JUSTICE DEPARTMENT HAS  
COME PRETTY CLOSE TO CHALLENGING THE SOVEREIGNTY OF THE PROVINCE  
OF SASKATCHEWAN.

A U.S. FEDERAL GRAND JURY HAS CHARGED SIX U.S. POTASH COMPANIES  
AND TWO OF THEIR SUBSIDIARIES WITH FIXING PRICES AND PRODUCTION  
WITHIN A PERIOD FROM 1969 TO 1974. IT HAPPENS THAT FOUR OF THE  
SIX COMPANIES HAVE EXTENSIVE OPERATIONS IN SASKATCHEWAN WHERE  
THE PROVINCIAL GOVERNMENT INITIATED PRORATIONING TO MAINTAIN  
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CERTAIN PRICE LEVELS BACK IN 1969.

THE INDICTMENT CHARGES THE COMPANIES WITH CONSPIRING, ALONG WITH UNIDENTIFIED AND UNINDICTED CO-CONSPIRATORS, TO COORDINATE U.S. AND CANADIAN PRODUCTION AS WELL AS EXPORTS FROM THE U.S. AND IMPORTS INTO THE U.S. FROM OUTSIDE NORTH AMERICA.

THE INDICTMENT RECOGNIZES THE SASKATCHEWAN PRORATIONING PROGRAM BUT ADDS THAT THE DEFENDANTS WENT BEYOND ITS REGULATIONS. IT CHARGES THAT THE U.S. PRODUCERS GAVE ASSURANCES TO THE SASKATCHEWAN GOVERNMENT OFFICIALS IN REGARD TO THE STABILIZATION AND CONTROL OF U.S. POTASH PRODUCTION AND PRICES IN RELATION TO THE CANADIAN CUTBACKS.

IN EFFECT, THE INDICTMENT CHARGES THAT THE COMPANIES RAISED, FIXED AND STABILIZED POTASH PRICES AT ARTIFICIAL AND NON-COMPETITIVE LEVELS, THUS DEPRIVING CUSTOMERS OF "FREE AND OPEN COMPETITION IN THE POTASH MARKET."

IT ADDS THAT THE PRODUCERS MONITORED AND POLICED ONE ANOTHER'S ADHERENCE TO PRODUCTION AND PRICE AGREEMENTS AND THAT U.S. AND CANADIAN OFFICIALS WERE INDUCED TO HELP IN THIS FUNCTION. NAMED AS DEFENDANTS WERE: AMAX INC.(AND A SUBSIDIARY) OF GREENWICH, CONN.; DUVAL CORP.(AND A SUBSIDIARY) HOUSTON; INTERNATIONAL MINERALS AND CHEMICAL CORP. OF LIBERTYVILLE, ILL. AND POTASH CO. OF AMERICA, DENVER.

ALL FOUR HAVE LARGE PRODUCTION FACILITIES IN SASKATCHEWAN AND ARE MEMEBERS OF THE 11- MEMBER CANADIAN POTASH PRODUCERS ASSOCIATION AS WELL AS THE 11-MEMBER ATLANTA-BASED POTASH INSTITUTE. THE OTHER FIRMS CHARGED ARE FREEPORT MINERALS CO., NEW YORK AND NATIONAL POTASH CO., CARLSBAD, N.M.

THE CIVIL SUIT ASKS THAT THE COMPANIES BE ENJOINED PERMANENTLY FROM RESTRAINING PRODUCTION OR FIXING PRICES, FROM GIVING ASSURANCES ABOUT FUTURE PRODUCTION OR PRICE LEVELS AND FROM EXCHANGING PRODUCTION OR PRICE LEVEL INFORMATION WITH EACH OTHER.

THIS, OF COURSE, WILL RAISE THE WHOLE QUESTION OF THE SASKATCHEWAN  
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GOVERNMENT'S... OR FOR THAT MATTER ANY GOVERNMENT'S ABILITY TO ESTABLISH AND MAINTAIN PRICE AND PRODUCTION LEVELS WITHIN ITS BORDERS. IT WOULD APPEAR THAT THE U.S. COMPANIES OPERATING IN SASKATCHEWAN DURING THE PERIOD IN QUESTION WERE SIMPLY ACTING AS GOOD CORPORATE CITIZENS IN FOLLOWING THE LAWS OF THE LAND.

THIS WHOLE QUESTION IS AN EXTENSION OF THE PERENNIAL PROBLEM OF THE U.S. GOVERNMENT MAKING DEMANDS ON THE MODUS OPERANDI

OF FOREIGN SUBSIDIARIES OF U.S. COMPANIES. BY PRESS-TIME MOST  
OF THE COMPANIES HAD STATED THAT THEY WILL PLEAD NOT GUILTY TO  
THE CHARGES, ADDING THAT THEY WILL VIGOROUSLY CONTEST THE ACTION  
WITH EVERY EXPECTATION THAT THEY WILL BE VINDICATED.

MAXIMUM PENALTIES ON CONVICTION COULD RANGE UP TO DLS.50,000  
PER COMPANY. HAD THE ALLEGED CONSPIRACY OCCURED AFTER  
DECEMBER, 1974. THE CORPORATIONS COULD HAVE BEEN SUBJECT TO  
MAXIMUM FINES OF DLS.1 MILLION EACH, IF CONVICTED.UNQUOTE.  
CANTWELL

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